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Attorney for Plaintiffs Margaret Alba, individually and as guardian ad litem for
 minor children A.S., L.S. and S.S. and Daisy Sanchez, individually and successors
 in interest to Leonard Angelo Sanchez

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

MARGARET ALBA, individually and as
 guardian ad litem for her minor children
 A.S., L.S. and S.S., and DAISY
 SANCHEZ, individually and successors
 in interest to LEONARD ANGELO
 SANCHEZ, and GLORIA ANN
 ALMAZON,

Plaintiffs,

vs.

CITY OF BARSTOW, COUNTY OF
 SAN BERNARDINO, ALBERT
 RAMIREZ, JR., JOHN McMAHON,
 WILLIAM SPILLER II, ANDREW
 BUESA, ANDREW ESPINOZA, JR.,
 THOMAS LEWIS, MICHAEL
 CLEARY, ARTURO ALVARADO,
 BRENDAN MOTLEY, MICHAEL

Case No.: 5:18-CV-02087-JGB (SHK)

SECOND AMENDED COMPLAINT
 FOR DAMAGES FOR VIOLATION
 OF FEDERAL CONSTITUTIONAL
 RIGHTS UNDER COLOR OF STATE
 LAW [42 U.S.C. § 1983] CLAIM FOR
 USE OF UNREASONABLE FORCE
 UPON PERSON [U.S. CONST.
 AMEND 4]¹, CLAIM FOR
 UNREASONABLE SEIZURE OF
 PERSON [U.S. CONST. AMEND 4²];
 CLAIM FOR UNREASONABLE
 SEIZURE OF PERSON [U.S. CONST.
 AMEND 4]; CLAIM FOR
 INTERFERENCE / DEPRIVATION
 OF PARENT - CHILD
 RELATIONSHIP [U.S. CONST.
 AMEND 14]; UNREASONABLE

¹ Survivor Claim via Cal. Civ. Proc. Code § 377.30.

² Survivor Claim via Cal. Civ. Proc. Code § 377.30.

1 WARRICK, MICHAEL WALKER,
 2 GERAD LAING, JAMES TEBBETS,
 3 JOSE BARRIENTOS, JARELL
 4 GILMORE, CHRISTOPHER KIRBY,
 5 FRANK BENITEZ and DOES 1 through
 10, inclusive,

6 Defendants.

SEIZURE OF PERSON [U.S. CONST.
 AMEND 4]; CLAIM FOR
 UNLAWFUL SEIZURE OF PRIVATE
 RESIDENCE [U.S. CONST. AMEND
 4]; CLAIM FOR UNLAWFUL
 SEARCH OF PRIVATE RESIDENCE
 [U.S. CONST. AMEND. 4 and
 CALIFORNIA STATE LAW CLAIMS
 FOR WRONGFUL DEATH [CAL.
 CIV. PROC. CODE § 377.60];
 VIOLATION OF BANE ACT [CAL.
 CIV. CODE § 52.1³]; FALSE ARREST
 / FALSE IMPRISONMENT,
 BATTERY⁴, ASSAULT, NEGLIGENT
 INFLECTION OF EMOTIONAL
 DISTRESS, NEGLIGENCE; *DILLON*
V. LEGG CLAIM and INTENTIONAL
 INFLECTION OF EMOTIONAL
 DISTRESS, *MONELL &*
 SUPERVISORY LIABILITY CLAIMS

JURY TRIAL DEMANDED

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 19 **COME NOW** plaintiffs Margaret Alba, individually and as guardian ad
 20 litem for minor children A.S., L.S. and S.S. and Daisy Sanchez, individually and as
 21 successors in interest to plaintiffs' decedent Leonard Angelo Sanchez, and Gloria
 22 Ann Alamazon, and show this Honorable Court the following:

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 24 **JURISDICTIONAL ALLEGATIONS**
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28 ³ Survivor Claim via Cal. Civ. Proc. Code § 377.30.

⁴ Direct liability and via survivor Claim under Cal. Civ. Proc. Code § 377.30.

1 1. As this action is brought under 42 U.S.C. § 1983 this court has
2 jurisdiction over this case under its federal question jurisdiction pursuant to 28
3 U.S.C. § 1331.
4

5 2. As the incidents complained of in this action occurred in the City of
6 Barstow, County of San Bernardino, State of California, within the territorial
7 jurisdiction of this court, venue properly lies in this court pursuant to 28 U.S.C. §
8 1391(b)(2).
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11 3. As plaintiffs' claims brought under California state law arise out of
12 the same transactions and occurrences and out of a common nucleus of operative
13 facts as the plaintiffs' federal questions claims, this court has jurisdiction over the
14 plaintiffs' California state law claims under its Supplemental Jurisdiction pursuant
15 to 28 U.S.C. § 1367, and otherwise pursuant to *United Mine Workers of America*
16 *v. Gibbs*, 383 U.S. 715 (1966).
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19 4. Plaintiff Margaret Alba, individually and as guardian ad litem for
20 minor children A.S.⁵, L.S.⁶ and S.S.⁷, and Daisy Sanchez, individually and as
21 successor in interest to Leonard Angelo Sanchez, timely filed plaintiffs'
22 Government Claims for Damages against the City of Barstow and the County of
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27 ⁵ Individually and as successor in interest to Leonard Angelo Sanchez.

28 ⁶ Individually and as successor in interest to Leonard Angelo Sanchez.

⁷ Individually and as successor in interest to Leonard Angelo Sanchez.

1 San Bernardino on April 25, 2018 and April 30, 2018 respectively, pursuant to the
2 California Tort Claims Act, Cal. Gov't. Code § 900 et seq., and said claim was
3 denied by defendant County of San Bernardino on or about May 29, 2018, and as
4 of the date of the filing of this instant complaint the City of Barstow has not
5 responded to said claim for damages at all, making such claim being deemed
6 denied by operation of law.
7

8 **GENERAL ALLEGATIONS**

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11 5. Plaintiff Margaret Alba, hereinafter referred to as “MARGARET
12 ALBA” and/or “plaintiff” and/or “Margaret Alba” is a natural person, who, at all
13 times complained of in this action, resided in the State of California. Plaintiff
14 Margaret Alba was the “girlfriend” of plaintiffs’ decedent, Leonard Angelo
15 Sanchez, and is also the biological mother, legal guardian and the guardian ad
16 litem for plaintiff Margaret Alba’s and Leonard Angelo Sanchez’ minor children
17 A.S., L.S. and S.S., individually, and as successors in interest to plaintiffs’
18 decedent, Leonard Angelo Sanchez; the father of A.S., L.S. and S.S..
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22 6. Plaintiff minor child, A.S., date of birth of March 4, 2005, hereinafter
23 referred to as “A.S.,” is a natural person, who, at all times complained of in this
24 action, resided in the County of San Bernardino, State of California. At all times
25 complained of herein, A.S. was the legal and natural daughter of her late father,
26 plaintiffs’ decedent Leonard Angelo Sanchez at the time of his death on February
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1 25, 2018. Therefore, plaintiff minor child A.S. is an heir of Leonard Angelo
2 Sanchez' under California law, and his successor in interest in this action pursuant
3 to Cal. Civ. Proc. Code § 337.30.
4

5 7. Plaintiff minor child L.S., date of birth June 20, 2008, hereinafter
6 referred to as "L.S.," is a natural person, who, at all times complained of in this
7 action, resided in the County of San Bernardino, State of California. At all times
8 complained of herein, L.S. was the legal and natural son of his late father,
9 plaintiffs' decedent Leonard Angelo Sanchez, at the time of his death on February
10 25, 2018. Therefore, plaintiff minor child L.S. is Leonard Angelo Sanchez' heir
11 under California law and his successor in interest in this action pursuant to Cal.
12 Civ. Proc. Code § 337.30.
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16 8. Plaintiff minor child S.S., date of birth November 11, 2014,
17 hereinafter referred to as "S.S.," is a natural person, who, at all times complained
18 of in this action, resided in the County of San Bernardino, State of California. At
19 all times complained of herein, S.S. was the legal and natural daughter of her late
20 father, plaintiffs' decedent, Leonard Angelo Sanchez, at the time of his death on
21 February 25, 2018. Therefore, plaintiff minor child S.S. is Leonard Angelo
22 Sanchez' heir under California law and his successor in interest in this action
23 pursuant to Cal. Civ. Proc. Code § 337.30.
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28 9. Plaintiff Daisy Marie Sanchez, date of birth June 21, 1998,

1 hereinafter referred to as “DAISY MARIE SANCHEZ,” and/or “Daisy Sanchez”
2 is a natural person, who, at all times complained of in this action, resided in the
3 County of San Bernardino, State of California. At all times complained of herein,
4 Daisy Marie Sanchez was the legal and natural adult daughter of her late father,
5 plaintiffs’ decedent, Leonard Angelo Sanchez, at the time of his death on February
6 25, 2018. Therefore, plaintiff adult child Daisy Marie Sanchez is Leonard Angelo
7 Sanchez’ heir under California law and his successor in interest in this action
8 pursuant to Cal. Civ. Proc. Code § 337.30.
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12 10. Plaintiff Gloria Ann Almazon, hereinafter referred to as
13 “ALMAZON”, is the natural and legal mother of Plaintiffs’ decedent, Leonard
14 Angelo Sanchez.
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16 11. Plaintiffs’ decedent, Leonard Angelo Sanchez, hereinafter referred to
17 as “LEONARD ANGELO SANCHEZ”, and/or “Leonard Angelo Sanchez” died
18 intestate on February 25, 2018 at the Barstow Community Hospital in the City of
19 Barstow, in San Bernardino County, California, from gunshot wounds inflicted
20 upon him by the defendant Barstow police officers William Spiller II and Andrew
21 Buesa in this action. At all times complained of LEONARD ANGELO
22 SANCHEZ was a resident of the County of San Bernardino and State of
23 California.
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28 12. Defendant City of Barstow, hereinafter also referred to as “City of

1 Barstow” or “CITY”, is a political subdivision of the State of California and is a
2 municipal entity, located in San Bernardino County; within the territorial
3 jurisdiction of this Honorable Court.
4

5 13. Defendant County of San Bernardino, hereinafter also referred to as
6 “County of San Bernardino” or “COUNTY”, is a political subdivision of the State
7 of California and is a municipal entity, located within the territorial jurisdiction of
8 this Honorable Court.
9

10 14. Defendant Albert Ramirez, Jr., hereinafter referred to as
11 “RAMIREZ”, is a sworn police officer and the Chief of Police of the Barstow
12 Police Department, who, at all times complained of in this action was acting as an
13 individual person under the color of state law, and was acting in the course of and
14 within the scope of his employment with the Barstow Police Department and
15 defendant City of Barstow.
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17 15. Defendant William Spiller II, hereinafter referred to as “SPILLER”,
18 is a sworn police officer with the Barstow Police Department, who, at all times
19 complained of in this action was acting as an individual person under the color of
20 state law, and was acting in the course of and within the scope of his employment
21 with the Barstow Police Department and defendant City of Barstow.
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23 16. Defendant Andrew Buesa, hereinafter referred to as “BUESA”, is a
24 sworn police officer with the Barstow Police Department, who, at all times
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1 complained of in this action was acting as an individual person under the color of
2 state law, and was acting in the course of and within the scope of his employment
3 with the Barstow Police Department and defendant City of Barstow.
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5 17. Defendant Andrew Espinoza, Jr., hereinafter referred to as
6 “ESPINOZA”, is a sworn police officer and Captain and Supervisor with the
7 Barstow Police Department, who, at all times complained of in this action was
8 acting as an individual person under the color of state law, and was acting in the
9 course of and within the scope of his employment with the Barstow Police
10 Department and defendant City of Barstow.
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13 18. Defendant Thomas Lewis, hereinafter referred to as “LEWIS”, is a
14 sworn police officer and a Detective and Supervisor with the Barstow Police
15 Department, who, at all times complained of in this action was acting as an
16 individual person under the color of state law, and was acting in the course of and
17 within the scope of his employment with the Barstow Police Department and
18 defendant City of Barstow.
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22 19. Defendant Michael Cleary, hereinafter referred to as “CLEARY”, is a
23 sworn deputy sheriff, Detective and Corporal and Supervisor with the San
24 Bernardino County Sheriff’s Department, who, at all times complained of in this
25 action was acting as an individual person under the color of state law, and was
26 acting in the course of and within the scope of his employment with the San
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1 Bernardino County Sheriff's Department and defendant County of San
2 Bernardino.
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4 20. Defendant Arturo Alvarado, hereinafter referred to as
5 "ALVARADO", is a sworn deputy sheriff, Detective and Corporal and Supervisor
6 with the San Bernardino County Sheriff's Department, who, at all times
7 complained of in this action was acting as an individual person under the color of
8 state law, and was acting in the course of and within the scope of his employment
9 with the San Bernardino County Sheriff's Department and defendant County of
10 San Bernardino.
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13 21. Defendant Brendan Motley, hereinafter referred to as "MOTLEY", is
14 a sworn deputy sheriff, Detective and Corporal and Supervisor with the San
15 Bernardino County Sheriff's Department, who, at all times complained of in this
16 action was acting as an individual person under the color of state law, and was
17 acting in the course of and within the scope of his employment with the San
18 Bernardino County Sheriff's Department and defendant County of San
19 Bernardino.
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22 22. Defendant Michael Warrick, hereinafter referred to as "WARRICK",
23 is a sworn deputy sheriff, Detective and Corporal and Supervisor with the San
24 Bernardino County Sheriff's Department, who, at all times complained of in this
25 action was acting as an individual person under the color of state law, and was
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1 acting in the course of and within the scope of his employment with the San
2 Bernardino County Sheriff's Department and defendant County of San
3 Bernardino.
4 Bernardino.

5 23. Defendant Michael Walker, hereinafter referred to as "WALKER", is
6 a sworn deputy sheriff, Sergeant and Supervisor with the San Bernardino County
7 Sheriff's Department, who, at all times complained of in this action was acting as
8 an individual person under the color of state law, and was acting in the course of
9 and within the scope of his employment with the San Bernardino County Sheriff's
10 Department and defendant County of San Bernardino.
11 Department and defendant County of San Bernardino.

12 24. Defendant Gerad Laing, hereinafter referred to as "LAING", is a
13 sworn deputy sheriff and a Corporal and Supervisor with the San Bernardino
14 County Sheriff's Department, who, at all times complained of in this action was
15 acting as an individual person under the color of state law, and was acting in the
16 course of and within the scope of his employment with the San Bernardino
17 County Sheriff's Department and defendant County of San Bernardino.
18 County Sheriff's Department and defendant County of San Bernardino.

19 25. Defendant James Tebbetts, hereinafter referred to as "TEBBETTS",
20 is a sworn deputy sheriff and Corporal and Detective and Supervisor with the San
21 Bernardino County Sheriff's Department, who, at all times complained of in this
22 action was acting as an individual person under the color of state law, and was
23 acting in the course of and within the scope of his employment with the San
24 Bernardino County Sheriff's Department, who, at all times complained of in this
25 action was acting as an individual person under the color of state law, and was
26 acting in the course of and within the scope of his employment with the San
27 acting in the course of and within the scope of his employment with the San
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1 Bernardino County Sheriff's Department and defendant County of San
2 Bernardino.
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4 26. Defendant Jose Barrientos, hereinafter referred to as
5 "BARRIENTOS", is a sworn police officer and Corporal and Supervisor with the
6 Barstow Police Department, who, at all times complained of in this action was
7 acting as an individual person under the color of state law, and was acting in the
8 course of and within the scope of his employment with the Barstow Police
9 Department and defendant City of Barstow.
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12 27. Defendant Jarell Gilmore, hereinafter referred to as "GILMORE", is
13 a sworn police officer and Sergeant and Supervisor with the Barstow Police
14 Department, who, at all times complained of in this action was acting as an
15 individual person under the color of state law, and was acting in the course of and
16 within the scope of his employment with the Barstow Police Department and
17 defendant City of Barstow.
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20 28. Defendant Christopher Kirby, hereinafter referred to as "KIRBY", is
21 a sworn police officer and Lieutenant and Supervisor with the Barstow Police
22 Department, who, at all times complained of in this action was acting as an
23 individual person under the color of state law, and was acting in the course of and
24 within the scope of his employment with the Barstow Police Department and
25 defendant City of Barstow.
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1 29. Defendant Frank Benitez, hereinafter referred to as “BENITEZ”, is a
2 sworn police officer and Sergeant and Supervisor with the Barstow Police
3 Department, who, at all times complained of in this action was acting as an
4 individual person under the color of state law, and was acting in the course of and
5 within the scope of his employment with the Barstow Police Department and
6 defendant City of Barstow.
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9 30. Defendant John McMahon (“McMAHON”) is the Sheriff of San
10 Bernardino County, California. At all times complained of herein McMAHON
11 was an individual person acting under the color of state law, and was acting in the
12 course and scope of his employment with the County of San Bernardino, and was
13 the top policymaking official of the San Bernardino County Sheriff’s Department.
14

15 31. Defendants DOES 1 through 3, inclusive, are sworn peace officers
16 and/or police officers and/or supervisors and/or investigators and/ Special Officers
17 and/or a dispatchers and/or some other public officer, public official or employee
18 of defendant City of Barstow, who in some way committed some or all of the
19 tortious actions (and constitutional violations) complained of in this action, and/or
20 who are otherwise responsible for and liable to plaintiffs for the acts complained
21 of in this action, whose identities are and remain unknown to plaintiffs, who will
22 amend their First Amended Complaint for Damages to add and to show the actual
23 names of said DOE defendants when so ascertained by plaintiffs.
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1 32. Defendants DOES 4 through 6, inclusive, are sworn peace officers
2 and/or deputy sheriffs and/or supervisors and/or investigators and/ Special
3 Officers and/or a dispatchers and/or some other public officer, public official or
4 employee of defendants County of San Bernardino, who in some way committed
5 some or all of the tortious actions (and constitutional violations) complained of in
6 this action, and/or are otherwise responsible for and liable to plaintiffs for the acts
7 complained of in this action, whose identities are and remain unknown to
8 plaintiffs, who will amend their Complaint for Damages to add and to show the
9 actual names of said DOE defendants when ascertained by plaintiffs.
10

11 33. At all times complained of herein, DOES 7 and 8 were acting as
12 individual persons acting under the color of state law, pursuant to their authority
13 as sworn peace officers and/or other Barstow public officials⁸ and Supervisors and
14 policy making officials, including the Chief of Police, Assistant Chiefs,
15 Commanders, Captains, Lieutenants or other policy making persons with
16 defendant City of Barstow, City Manager and City Council Members and were
17 acting in the course of and within the scope of their employment with defendants
18 City of Barstow. DOES 7 and 8 were in some substantial way liable and
19 responsible for, or otherwise proximately caused and/or contributed to the
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⁸ Including Barstow City Council Members and the Barstow City Manager.

1 commission of the events complained of by plaintiffs in this case, such as via
 2 supervisory liability (i.e. failure to properly supervise, improperly directing
 3 subordinate officers and/or approving unconstitutional actions of subordinate
 4 officers), via bystander liability (failing to intervene in and stop unlawful actions
 5 of their subordinates and/or other officers), and such as by creating and/or causing
 6 the creation of and/or contributing to the creation of the policies and/or practices
 7 and/or customs and/or usages of the City of Barstow for: 1) wrongfully and
 8 unconstitutionally killing persons; 2) unlawfully using excessive / unreasonable
 9 force, including deadly force, on persons; 3) unlawfully searching and seizing
 10 persons; 4) unlawfully searching and seizing persons' homes and effects /
 11 personal property⁹; 5) falsely arresting and falsely imprisoning persons; 6)
 12 fabricating / destroying / concealing / altering / withholding evidence in criminal
 13 and civil actions; 7) "framing" / attempting to "frame" innocent persons in
 14 criminal actions¹⁰, 8) violating and interfering with persons' constitutionally
 15 protected right to free speech and right to petition the government for redress of
 16 grievances; 9) violating, interfering with and depriving persons of their of

26 ⁹ Such as by using and abusing the search warrant process along with the unlawful search and
 27 seizure of private residences, to perform civil liability investigations for the County of San
 28 Bernardino and for the City of Barstow, and not for the purpose of investigating criminal
 activity.

¹⁰ To protect themselves and other police officers and deputy sheriffs and supervisory personnel
 from civil, administrative and criminal liability.

1 constitutionally protected parent - child relationships; 10) covering-up unlawful,
2 felonious and tortious conduct by City of Barstow police officers and other City
3 personnel, and were a proximate cause of the very same California state law, and
4 federal and state statutory and constitutional violations complained of by the
5 plaintiffs in this action.
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8 34. Defendants DOES 9 and 10, are sworn peace officers and/or other
9 public officials such as the Sheriff, Undersheriff, Assistant Sheriffs, Commanders,
10 Captains, Lieutenants, Sergeants, Detectives and/or other Supervisory personnel
11 employed by COUNTY and/or the County Executive Officer and/or Members of
12 the Board of Supervisors of San Bernardino County, and were policy making
13 and/or final policy making officials¹¹ with the County of San Bernardino, who
14 were acting in the course and scope of their employment with COUNTY, and are
15 in some substantial way liable and responsible for, or otherwise proximately
16 caused and/or contributed to the events complained of by plaintiffs in this action,
17 such as via supervisory liability (i.e. failure to properly supervise, improperly
18 directing subordinate officers, approving actions of subordinate officers), via
19 bystander liability (failing to intervene in and stop unlawful actions of their
20 subordinates and/or other officers), and such as by creating and/or causing the
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¹¹ Including the County Board of Supervisors and the County Executive Officer.

1 creation of and/or contributing to the creation of the policies and/or practices
 2 and/or customs and/or usages of the County of San Bernardino for: 1) wrongfully
 3 and unconstitutionally killing persons; 2) unlawfully using excessive /
 4 unreasonable force, including deadly force, on persons; 4) unlawful searching and
 5 seizing persons' homes and effects / personal property¹²; 5) falsely arresting and
 6 falsely imprisoning persons; 6) fabricating / destroying / concealing / altering /
 7 withholding evidence in criminal and civil actions; 7) "framing" / attempting to
 8 "frame" innocent persons in criminal actions¹³, 8) violating and interfering with
 9 persons' constitutionally protected right to free speech and right to petition the
 10 government for redress of grievances; 9) violating, interfering with and depriving
 11 persons of their of constitutionally protected parent - child relationships; 10)
 12 covering-up unlawful and tortious conduct by the County of San Bernardino
 13 Deputy Sheriffs and other County personnel, and were a proximate cause of the
 14 very same California state law, and federal and state statutory and constitutional
 15 violations complained of by the plaintiffs in this action.

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 22 35. Plaintiffs are presently unaware of the identities of DOES 1 through
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26 ¹² Such as by using and abusing the search warrant process along with the unlawful search and
 27 seizure of private residences, to perform civil liability investigations for the County of San
 28 Bernardino and for the City of Barstow, and not for the purpose of investigating criminal
 activity.

¹³ To protect themselves and other police officers and deputy sheriffs and supervisory personnel
 from civil, administrative and criminal liability.

1 10, inclusive, and will amend their Complaint for Damages to add and to show the
2 actual names of said DOE defendants, when ascertained by plaintiffs.
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4 36. In addition to the above and foregoing, defendants RAMIREZ,
5 SPILLER, BUESA, ESPINOZA, LEWIS, CLEARY, ALVARADO, MOTLEY,
6 WARRICK, WALKER, LAING, TEBBETTS, BARRIENTOS, GILMORE,
7 KIRBY, BENITEZ and DOES 1 through 6, inclusive, acted pursuant to a
8 conspiracy, agreement and understanding and common plan and scheme to
9 deprive the plaintiffs Margaret Alba, A.S., L.S., S.S., and Daisy Sanchez and
10 Gloria Ann Alamazon, and plaintiff's decedent Leonard Sanchez, of their federal
11 and California Constitutional and statutory rights, as complained of in this action,
12 and acted in joint, concerted and conspiratorial action to so deprive plaintiffs
13 Margaret Alba, A.S., L.S., S.S., and Daisy Sanchez and Gloria Ann Alamazon of
14 those rights as complained of herein; all in violation of 42 U.S.C. § 1983, and
15 otherwise in violation of United States and California Constitutional and statutory
16 law.
17

18 37. Said conspiracy / agreement / understanding / plan / scheme / joint
19 action / concerted action, above-referenced, was a proximate cause of the
20 violation of the plaintiffs Margaret Alba's, A.S.'s, L.S.'s, S.S.'s, and Daisy
21 Sanchez' and Gloria Ann Alamazon's federal and state constitutional and statutory
22 rights, as complained of herein.
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FIRST CAUSE OF ACTION
USE OF UNREASONABLE FORCE UPON PERSON UNDER
FOURTH AMENDMENT¹⁴

[42 U.S.C. § 1983]

[Survivorship Claim Under Cal. Civ. Proc. Code § 377.30]

**(By Plaintiff Margaret Alba, as guardian ad litem for her minor children A.S.,
L.S. and S.S. as successors in interest to Leonard Angelo Sanchez, and by
Daisy Sanchez, as a successor in interest to Leonard Angelo Sanchez, against
Defendants SPILLER, BUESA, CITY and
DOES 1 through 6, inclusive)**

38. Plaintiffs hereby reallege and incorporate by reference the allegations set forth in paragraphs 1 through 37, inclusive, above, as if set forth in full herein.

39. On the evening of February 25, 2018, a “911 call” was made to the police by plaintiff Margaret Alba (“ALBA”) regarding the behavior of Leonard Angelo Sanchez, as Leonard Angelo Sanchez was threatening to harm himself with a knife, and ALBA was worried that he might do so, and was, therefore, asking the police for help for Leonard Angelo Sanchez.

40. Defendants SPILLER and BUESA were dispatched to and arrived at the Sands Motel¹⁵, located at 924 East Main Street, Barstow, California where plaintiffs Margaret Alba, A.S., L.S., S.S. and Leonard Angelo Sanchez resided.

41. When defendants SPILLER and BUESA arrived at the Sands Motel in response to ALBA’s 911 call, Leonard Angelo Sanchez, minor plaintiff L.S.

¹⁴ U.S. Const. Amend. 4.

¹⁵ A residence type motel.

1 and Margaret Alba were standing outside of the doorway area of their motel room
2 (Room Number 10), and A.S. and S.S. were inside said motel room.
3

4 42. When defendants SPILLER and BUESA approached them minor
5 plaintiff L.S. complained to his father, Leonard Angelo Sanchez, that he ruins
6 everything, and walked into the motel room; behind Leonard Angelo Sanchez and
7 plaintiff Margaret Alba who were standing outside of the motel room and facing
8 SPILLER and BUESA.
9

10 43. Plaintiff Margaret Alba told SPILLER and BUESA that they wanted
11 Leonard Angelo Sanchez to leave their motel room and that he was acting crazy.
12 Leonard Angelo Sanchez agreed (that he was crazy) he then displayed two kitchen
13 knives with his right hand, and then held them one knife in each his hands in a
14 nonthreatening manner to others.
15
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17 44. While holding the knives in his hand, defendant SPILLER pointed his
18 pistol at Leonard Angelo Sanchez, and defendant BUESA pointed his taser at
19 Leonard Angelo Sanchez, and both officers were yelling at Leonard Angelo
20 Sanchez, ordering him to drop the knives.
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23 45. Leonard Angelo Sanchez did not expressly or impliedly threaten
24 anyone other than himself, with said knives, and held them against flush against
25 his front midsection.
26
27

28 46. Margaret Alba then walked into the motel room.

1 47. After defendants SPILLER and BUESA continued to point their
2 weapons at Leonard Angelo Sanchez and demand that he drop the knives, and
3 Leonard Angelo Sanchez turned to walk back into the motel room, and stopped at
4 the doorway and looked back at said officers.
5

6 48. Defendant BUESA said to SPILLER *“Do you want me to try to tase*
7 *him? Do you want me to try to tase him? Drop “*, and immediately thereafter
8 BUESA fired his taser at Leonard Angelo Sanchez as he stood in the doorway.
9

10 49. Immediately after BUESA shot Leonard Angelo Sanchez with his
11 taser, SPILLER shot Leonard Angelo Sanchez with his pistol as he was still
12 standing on the threshold of the doorway of the motel room.
13

14 50. After the defendants SPILLER and BUESA shot Leonard Angelo
15 Sanchez the first time, he fell onto the bed into a helpless position in the motel
16 room. Margaret Alba kept yelling at the defendants SPILLER and BUESA:
17 *“Don’t shoot, don’t shoot, he dropped the knife”*¹⁶.
18

19 51. At the time of the first shooting, all three minor children plaintiffs
20 were in the room, including A.S., L.S., S.S., and they personally witnessed
21 defendant SPILLER shoot their father, and the plaintiffs were in the line of fire
22 such that SPILLER placed the plaintiffs in greater danger by shooting Leonard
23
24
25
26

27
28 ¹⁶ Or words to that effect.

1 Angelo Sanchez than any possible danger posed to them by Leonard Angelo
2 Sanchez.
3

4 52. Thereafter, notwithstanding Leonard Angelo Sanchez now lying on
5 the bed and disabled by the gunshot wound, and not posing any threat to either the
6 minor plaintiffs or plaintiff Margaret Alba, plaintiffs begged the officers not to
7 shoot him again, but defendant SPILLER proceeded to shoot Leonard Angelo
8 Sanchez two more times while he was in a supine position on the bed and posed a
9 threat to no one.
10
11

12 53. The additional two shots by defendant SPILLER occurred after
13 Leonard Angelo Sanchez was already shot once, after he was lying on his back
14 and on the bed inside the motel room, and posing no threat to anyone. The three
15 gunshots also collectively resulted in Leonard Angelo Sanchez' death on February
16 25, 2018.
17
18

19 54. After the defendant officers SPILLER and BUESA shot Leonard
20 Angelo Sanchez, they pointed and brandished their weapons at the minor plaintiffs
21 and Margaret Alba and ordered them to get out of their motel room, which was
22 their home.
23
24

25 55. Minor plaintiff A.S. was horrified and ran into the bathroom of the
26 motel room.
27

28 56. Plaintiff Margaret Alba then begged the defendant officers not to

1 shoot her children, and said defendant officers then pointed their guns at the
2 plaintiffs, including the minor plaintiffs, and ordered them to exit the motel room.
3

4 57. Plaintiffs were terrified, horrified and terrorized by seeing their
5 father shot before their eyes, and were terrified by having guns pointed at them
6 while being ordered to leave the motel room, and ran out of the motel room to
7 comply with said defendants' orders.
8

9 58. Said deadly shooting of Leonard Angelo Sanchez by said defendants
10 SPILLER and BUESA also caused Leonard Angelo Sanchez to suffer severe
11 physical injury and ultimately his death, as well as severe mental, emotional and
12 physical pre-death, distress, pain and suffering; in an amount to be proven at trial,
13 in excess of \$3,000,000.00.
14
15

16 60. Said shooting of Leonard Angelo Sanchez by defendants SPILLER
17 and BUESA was done by said defendant police officers unreasonably, without
18 reasonable cause to believe that Leonard Angelo Sanchez was such an imminent
19 danger to others that it was reasonably necessary to shoot him at all, and was done
20 without legal or moral justification for doing so.
21
22

23 61. Accordingly, said shooting of Leonard Angelo Sanchez was done in
24 violation of his right to be free from the use of unreasonable force upon his person
25 under the Fourth Amendment to the United States Constitution.
26
27

28 62. Said shooting of Leonard Angelo Sanchez by defendants SPILLER

1 and BUESA also caused plaintiffs' decedent Leonard Angelo Sanchez to suffer
 2 severe physical injuries, and severe pre-death pain and suffering, severe pre-death
 3 mental and emotional injuries, pain and suffering, as well as other general and
 4 special damages, including but not limited to, lost wages / profits and other
 5 income that plaintiffs' decedent Leonard Angelo Sanchez would have earned /
 6 made / acquired during his lifetime, the loss of Leonard Angelo Sanchez's
 7 residence and the other property of Leonard Angelo Sanchez, funeral and burial
 8 expenses, hospital and other medical expenses and costs, and other special
 9 damages; all in an amount to be shown at trial, in excessive of \$5,000,000.00.
 10

11 63. Said deadly shooting of Leonard Angelo Sanchez by defendants
 12 SPILLER and BUESA was done maliciously and in reckless disregard of Leonard
 13 Angelo Sanchez's constitutional rights; sufficient for an award of punitive
 14 damages against said defendants; in an amount to be shown at trial, in excessive
 15 of \$3,000,000.00 for each plaintiff.
 16

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 20
 21 **SECOND CAUSE OF ACTION**
 22 **UNREASONABLE FORCE ON PERSON UNDER**
 23 **FOURTH AMENDMENT**
 24 **[42 U.S.C. § 1983]**
 25 **[Direct Liability Action]**

26 **(By Plaintiff Margaret Alba, individually and as guardian ad litem for**
 27 **plaintiff minor children A.S., L.S. and S.S., against Defendants SPILLER,**
 28 **BUESA, CITY and DOES 1 through 6, inclusive)**

64. Plaintiffs hereby reallege and incorporate by reference the allegations
 set forth in paragraphs 1 through 63, inclusive, above, as if set forth in full herein.

1 65. As set forth above, defendants SPILLER and BUESA, inclusive,
2 pointed their guns at plaintiffs Margaret Alba, A.S., L.S. and S.S and yelled at
3 them to get out of their motel room after said defendants shot Leonard Angelo
4 Sanchez inside of said room.
5

6 66. Defendants SPILLER and BUESA's pointing of their guns at the
7 plaintiffs, above-referenced, was done by said defendants without any legal or
8 moral justification for doing so. The plaintiffs did not commit any crimes and
9 posed no threat to said defendants.
10

11 67. Accordingly, defendants SPILLER and BUESA's pointing of their
12 guns at plaintiffs Margaret Alba, A.S., L.S. and S.S constituted the threatened use
13 of unreasonable deadly force upon the plaintiffs, in violation of their right to be free
14 from the threatened use of unreasonable deadly force upon them under the Fourth
15 Amendment of the United States Constitution.
16

17 68. As a direct and proximate result of the actions of said defendants,
18 plaintiffs Margaret Alba, A.S., L.S. and S.S.: 1) were substantially physically,
19 mentally and emotionally injured, and suffered great physical, mental and
20 emotional injury, distress, pain and suffering; 2) incurred medical and
21 psychological costs, bills and expenses, 3) incurred attorney's fees and associated
22 litigation and other related costs, and 4) incurred the loss of business wages and
23 profits, and 5) incurred other special and general damages and expenses, in an
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1 amount to be proven at trial, in excess of \$3,000,000.00 each.

2 69. The actions by said defendants were committed maliciously and
3
4 oppressively and in reckless disregard of the plaintiff's constitutional rights;
5 sufficient for an award of punitive / exemplary damages against defendants
6 SPILLER and BUESA in an amount to be proven at trial in excess of
7 \$3,000,000.00 for each plaintiff against each SPILLER and BUESA.
8

9
10 **THIRD CAUSE OF ACTION**
11 **UNREASONABLE SEIZURE OF PERSON UNDER**
12 **FOURTH AMENDMENT**
13 **[42 U.S.C. § 1983]**
14 **[Direct Liability Action]**

15 **(By Plaintiff Margaret Alba, individually and as guardian ad litem for minor**
16 **children A.S., L.S. and S.S., against Defendants)**

17 70. Plaintiffs hereby reallege and incorporate by reference the allegations
18 set forth in paragraphs 1 through 69, inclusive, above, as though set forth in full
19 herein.

20 71. As shown above, on February 25, 2018, plaintiff Leonard Angelo
21 Sanchez was shot with a taser by BUESA, and was immediately thereafter shot
22 with a pistol three times by defendant SPILLER, which resulted in his death by
23 said defendants.
24

25 72. Moreover, as shown above, plaintiff Leonard Angelo Sanchez
26 suffered severe injuries from gunshot wounds from being shot three times by
27 defendant SPILLER, and from being shot with BUESA's taser.
28

1 73. When defendants SPILLER and BUESA shot plaintiff Leonard
2 Angelo Sanchez, in the same room where plaintiffs Margaret Alba, A.S., L.S. and
3 S.S. were and where they resided, defendants SPILLER and BUESA, and thereafter
4 by defendants RAMIREZ and/or ESPINOZA and/or LEWIS and/or CLEARY
5 and/or ALVARADO and/or MOTLEY and/or WARRICK and/or WALKER
6 and/or LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY and/or
7 BENITEZ and DOES 1 through 6, inclusive, seized plaintiffs Margaret Alba,
8 A.S., L.S. and S.S. and held them confined in other rooms at said motel, and
9 thereafter took them against their will to the Barstow Police Department's
10 Detective's Offices in Barstow, California and held them there against their will for
11 several hours for interrogation by those San Bernardino County Sheriff's
12 Department investigators shown above and below, pursuant to a policy, and
13 longstanding custom and practice of both CITY and COUNTY, for Barstow Police
14 Department Officers to unlawfully seize witnesses and victims of officer-involved-
15 shootings (by Barstow Police Department officers) for them to be unlawfully
16 interrogated by San Bernardino County Sheriff's Department officer-involved-
17 shooting Investigators at said station, pursuant to such unlawful seizures of
18 witnesses, to protect CITY and Barstow Police Department Officers from civil
19 liability, from criminal liability and from obloquy.
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28 74. During said confinements (that constitute arrests) of the plaintiffs,

1 above-described at the motel and at the Barstow Police Station, initially by
2 defendants SPILLER and BUESA, and thereafter by defendants RAMIREZ
3 and/or ESPINOZA and/or LEWIS and/or CLEARY and/or ALVARADO and/or
4 MOTLEY and/or WARRICK and/or WALKER and/or LAING and/or
5 BARRIENTOS and/or GILMORE and/or KIRBY and/or BENITEZ and DOES 1
6 through 6, inclusive, was done by them to interrogate said plaintiffs for civil
7 liability purposes; not to investigate any crimes by them or by Leonard Angelo
8 Sanchez, but to get them to make inconsistent statements and other coerced /
9 tainted statements to them to attempt to protect defendants SPILLER, BUESA,
10 CITY and COUNTY from civil liability to said plaintiffs, and to protect
11 defendants SPILLER, BUESA and DOES 1 through 6, inclusive, from Internal
12 Discipline and possible criminal prosecution. This was standard, routine and
13 longstanding policy and practice of all defendants to protect themselves and each
14 other from civil liability, including seizing witnesses to police shootings and
15 interrogating them without telling them that the person who the police shot had
16 died.

17
18 75. Said defendants had no probable cause to believe that any of the
19 plaintiffs committed a crime, nor any reasonable suspicion of criminality afoot by
20 any of the plaintiffs, nor any reason to believe that the plaintiffs were doing
21 anything that posed or that would have posed any dangers to others, nor any
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1 reason to believe that if they didn't obtain statements from the plaintiffs that day
2 that they would not be able to locate the plaintiffs to obtain statements from them
3 at some later date and time.
4

5 76. Accordingly, said seizures (detentions and arrests) of the plaintiffs
6 Margaret Alba, A.S., L.S. and S.S. by defendants SPILLER and BUESA, and
7 thereafter by defendants RAMIREZ and/or ESPINOZA and/or LEWIS and/or
8 CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK and/or
9 WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or
10 KIRBY and/or BENITEZ and DOES 1 through 6, inclusive, was done in violation
11 of their right to be free from an unreasonable seizure of their person under the
12 Fourth Amendment to the United States Constitution.
13
14
15

16 77. As a direct and proximate result of the actions of the unlawful /
17 unreasonable seizure of plaintiffs by defendants SPILLER and BUESA, and
18 thereafter by defendants RAMIREZ and/or ESPINOZA and/or LEWIS and/or
19 CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK and/or
20 WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or
21 KIRBY and/or BENITEZ and DOES 1 through 6, inclusive, plaintiffs: 1) were
22 substantially physically, mentally and emotionally injured, and suffered great
23 physical, mental and emotional injury, distress, pain and suffering; 2) incurred
24 medical and psychological costs, bills and expenses, 3) incurred attorney's fees
25
26
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1 and associated litigation and other related costs, and 4) incurred the loss of
 2 business wages and profits, 5) incurred other special and general damages and
 3 expenses, in an amount to be proven at trial, in excess of \$3,000,000.00 per
 4 plaintiff.
 5

6
 7 78. The actions of said defendants, and each of them, as complained of
 8 herein, were committed maliciously, oppressively and in reckless disregard of
 9 Plaintiffs' constitutional rights, sufficient for an award of punitive / exemplary
 10 damages against said defendants, in an amount to be proven at trial, in excess of
 11 \$3,000,000.00 for each plaintiff.
 12

13
 14 **FOURTH CAUSE OF ACTION**
 15 **LOSS OF PARENT- CHILD RELATIONSHIP WITHOUT DUE PROCESS**
 16 **OF LAW UNDER FOURTEENTH AMENDMENT**
 17 **[42 U.S.C. § 1983]**
 18 **[Direct Liability Action]**
 19 **(By Plaintiff Margaret Alba, as guardian ad litem for minor children A.S., L.S.**
 20 **and S.S., and Daisy Sanchez and Gloria Ann Alamazon against Defendants**
 21 **SPILLER, BUESA and CITY)**
 22

23 79. Plaintiffs hereby reallege and incorporate by reference the allegations
 24 set forth in paragraphs 1 through 78, inclusive, above, as though set forth in full
 25 herein.
 26

27 80. The unlawful killing of plaintiffs' decedent, Leonard Angelo
 28 Sanchez, by defendants SPILLER and BUESA, described-above, was done by
 them with a deliberate indifference to and a reckless disregard of the plaintiffs'

1 child-parent / parent-child relationships with their father and son, Leonard Angelo
2 Sanchez, and deprived minor children plaintiffs A.S., L.S., S.S., adult plaintiff
3 Daisy Sanchez and plaintiff Gloria Ann Almazon (the Mother of Leonard Angelo
4 Sanchez) of their Parent – Child Relationship with Leonard Angelo Sanchez, and
5 deprived said plaintiffs of their rights guaranteed to them under the Fourteenth
6 Amendment to the United States Constitution¹⁷.
7

8
9 81. The use of unreasonable force upon Leonard Angelo Sanchez that
10 resulted in the unlawful killing of him by defendants SPILLER and BUESA was
11 done intentionally, was done in a manner that constituted the use of unreasonable
12 force, and was done in a manner that constituted a deliberate indifference to and
13 reckless disregard of Leonard Angelo Sanchez’s life and to said Child – Parent
14 Relationship, and constituted outrageous behavior that was shocking to the
15 conscience.
16
17

18
19 82. Moreover, the ordering of the plaintiffs out of their motel room while
20 their father and the father of Margaret Alba’s children was laying on the bed in the
21 room, dying, and wanting to be comforted by his children, and with his children
22 not wanting to leave their dying father’s presence, deprived the plaintiffs of their
23
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27

28 ¹⁷ As shown above, plaintiff Margaret Alba is Guardian Ad Litem for the minor plaintiffs A.S., L.S. and S.S., successors in interest, to plaintiffs’ decedent Leonard Angelo Sanchez.

1 right to be with their dying father while he was still alive; also in violation of the
 2 plaintiffs Parent – Child Relationship with Leonard Angelo Sanchez.
 3

4 83. The unlawful killing of plaintiffs' deceased, Leonard Angelo
 5 Sanchez, by defendants SPILLER and BUESA, above-referenced, and the
 6 ordering of the minor plaintiffs outside of their motel room also caused plaintiffs
 7 Gloria Ann Almazon, Daisy Sanchez, A.S., L.S. and S.S. to suffer the loss of their
 8 father and son Leonard Angelo Sanchez's society, the loss of his solace and
 9 comfort, companionship, as well as caused them to suffer great mental and
 10 emotional and distress, pain and suffering and loss of support, and special
 11 damages such as support and other monies and property from their late father and
 12 son in an amount to be shown at trial, in excess of \$10,000,000.00 each.
 13
 14
 15

16 84. The unlawful killing of Leonard Angelo Sanchez by defendants
 17 SPILLER and BUESA was done maliciously and in reckless disregard of
 18 plaintiffs' constitutional rights, sufficient for an award of punitive damages
 19 against defendants SPILLER and BUESA; all in an amount to be shown at trial, in
 20 excess of \$3,000,000.00 for each plaintiff against both SPILLER and BUESA.
 21
 22
 23

24 **FIFTH CAUSE OF ACTION**
 25 **UNLAWFUL SEIZURE OF PRIVATE RESIDENCE**
 26 **[42 U.S.C. § 1983]**

27 **[Direct Liability Action]**

28 **(By Plaintiff Margaret Alba, individually and as guardian ad litem for
 plaintiff minor children A.S., L.S. and S.S., against Defendants SPILLER and
 BUESA)**

1 85. Plaintiffs hereby reallege and incorporate by reference the allegations
2 set forth in paragraphs 1 through 84, inclusive, above, as though set forth in full
3 herein.
4

5 86. When defendants SPILLER and BUESA shot plaintiff Leonard
6 Angelo Sanchez, in the same room where plaintiffs Margaret Alba, A.S., L.S. and
7 S.S. were and where they resided, defendants SPILLER and BUESA seized
8 plaintiffs Margaret Alba, A.S., L.S. and S.S., and held them confined in other rooms
9 at said motel.
10

11 87. In addition, after shooting Leonard Angelo Sanchez, defendants
12 SPILLER and BUESA pointed their guns at plaintiffs Margaret Alba, A.S., L.S.
13 and S.S. and yelled at them to get out of their motel room; essentially threatening
14 them with being shot for their refusal / failure to exit their motel room.
15
16

17 88. Said plaintiffs exited their motel room pursuant to said defendants'
18 orders to do so; above-referenced.
19

20 89. Soon thereafter, defendants SPILLER and BUESA closed the door of
21 the plaintiff's motel room; preventing the plaintiffs or anyone else from seeing what
22 was going on inside of the motel room.
23

24 90. Moreover, defendants SPILLER and BUESA kept the plaintiffs from
25 access to their personal property that was inside of the motel room when the
26 plaintiffs were forced out of the same.
27
28

1 91. Accordingly, the actions of defendants SPILLER and BUESA in
2 forcing the plaintiffs out of their motel room and keeping them out of the same
3 constituted a seizure of the plaintiffs' residence by said defendants, in the absence of
4 a warrant or any other legal justification for the same; in violation of the plaintiffs
5 right to be in their own residence under the Fourth Amendment to the United States
6 Constitution.
7

8
9 92. As a direct and proximate result of the actions of defendants
10 SPILLER and BUESA the unlawful / unreasonable seizure of plaintiffs residence,
11 plaintiffs: 1) were substantially physically injured, mentally and emotionally
12 injured, and suffered great physical, mental and emotional injury, distress, pain
13 and suffering; 2) incurred medical and psychological costs, bills and expenses, 3)
14 incurred attorney's fees and associated litigation and other related costs, and 4)
15 incurred the loss of business wages and profits, 5) incurred other special and
16 general damages and expenses, in an amount to be proven at trial, in excess of
17 \$3,000,000.00.
18

19 93. The actions of said defendants, and each of them, as complained of
20 herein, were committed maliciously, oppressively and in reckless disregard of
21 plaintiff's constitutional rights, sufficient for an award of punitive / exemplary
22 damages against said defendants, in an amount to be proven at trial, in excess of
23 \$3,000,000.00 for each plaintiff.
24
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28

1 **SIXTH CAUSE OF ACTION**
2 **UNLAWFUL SEARCH AND SEIZURE OF PRIVATE RESIDENCE**
3 **[42 U.S.C. § 1983]**
4 **[Direct Liability Action]**
5 **(By Plaintiff Margaret Alba, individually and as guardian ad litem for**
6 **plaintiff minor children A.S., L.S. and S.S., against all Defendants)**

7 94. Plaintiffs hereby reallege and incorporate by reference the allegations
8 set forth in paragraphs 1 through 93, inclusive, above, as though set forth in full
9 herein.

10 95. As alleged above, when defendants SPILLER and BUESA shot
11 plaintiff Leonard Angelo Sanchez, in the same room where plaintiffs Margaret
12 Alba, A.S., L.S. and S.S. were, and where they resided, defendants SPILLER,
13 BUESA, RAMIREZ and/or ESPINOZA and/or LEWIS and/or CLEARY and/or
14 ALVARADO and/or MOTLEY and/or WARRICK and/or WALKER and/or
15 LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY and/or BENITEZ
16 and DOES 1 through 6, inclusive, seized plaintiffs Margaret Alba, A.S., L.S. and
17 S.S., and held them confined in other rooms at said motel, and thereafter took them
18 against their will to, and imprisoned them at the Barstow Police Department's
19 Detective's Offices in Barstow, California.

20 96. In addition, as alleged above, after shooting Leonard Angelo Sanchez
21 defendants SPILLER and BUESA pointed their guns at plaintiffs Margaret Alba,
22 A.S., L.S. and S.S. and yelled at them to get out of their motel room; essentially
23
24
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1 threatening them with being shot for their refusal / failure to exit their motel room.

2 97. In addition, as alleged above, said plaintiffs exited their motel room
3 pursuant to said defendants' demands to do so; above-referenced.
4

5 98. In addition, as alleged above, defendants SPILLER and BUESA, and
6 thereafter defendants RAMIREZ and/or ESPINOZA and/or LEWIS and/or
7 CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK and/or
8 WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or
9 KIRBY and/or BENITEZ and DOES 1 through 6, inclusive, used yellow police
10 tape to cordon-off the area around and their motel room at the Sands Motel, to keep
11 them and others away from and out of the plaintiff's motel room.
12
13
14

15 99. Moreover, as alleged above, defendants SPILLER and BUESA, and
16 thereafter defendants RAMIREZ and/or ESPINOZA and/or LEWIS and/or
17 CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK and/or
18 WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or
19 KIRBY and/or BENITEZ and DOES 1 through 6, inclusive, ejected the plaintiffs
20 out of their motel room, to prevent them from gathering evidence showing the
21 wrongfulness of the shooting of Leonard Angelo Sanchez, and allowing them to do
22 the civil liability investigation to protect SPILLER and BUESA and CITY from
23 civil liability.
24
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27

28 100. Moreover, as alleged above, defendants SPILLER and BUESA, and

1 thereafter defendants RAMIREZ and/or ESPINOZA and/or LEWIS and/or
2 CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK and/or
3 WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or
4 KIRBY and/or BENITEZ and DOES 1 through 6, inclusive, kept the plaintiffs
5 from access to their personal property that was inside of the motel room when the
6 plaintiffs were forced out of the same.
7

8
9 101. In addition to the above and foregoing, following defendants SPILLER
10 and BUESA, and thereafter defendants RAMIREZ and/or ESPINOZA and/or
11 LEWIS and/or CLEARY and/or ALVARADO and/or MOTLEY and/or
12 WARRICK and/or WALKER and/or LAING and/or BARRIENTOS and/or
13 GILMORE and/or KIRBY and/or BENITEZ and DOES 1 through 6, inclusive,
14 forcing the plaintiffs out of their motel room, defendants SPILLER, BUESA and/or
15 RAMIREZ and/or ESPINOZA and/or LEWIS and/or CLEARY and/or
16 ALVARADO and/or MOTLEY and/or WARRICK and/or WALKER and/or
17 LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY and/or
18 BENITEZ and DOES 1 through 6, inclusive, unlawfully obtained a search warrant
19 for the search of said motel room; not to investigate criminal behavior, but to
20 perform a civil liability investigation for the City of Barstow by the County of San
21 Bernardino; an abuse of the search warrant provisions of California and federal
22 statutory and constitutional law.
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1 102. The affidavit for the search warrant (i.e. Statement of Probable Cause)
2 was devoid of any facts that indicated that the defendants were even doing any sort
3 of criminal investigation, and only showed that pursuant to the policies and the
4 longstanding customs and practices of the Barstow Police Department and the San
5 Bernardino County Sheriff's Department, the defendants were abusing the search
6 warrant process to unlawfully conduct a Civil Liability Investigation for the Barstow
7 Police Department and for SPILLER and BUESA; to protect them from civil
8 liability for the shooting of Leonard Angelo Sanchez described above.
9

10
11
12 103. Moreover, even if said defendants were doing a criminal investigation
13 regarding the shooting of Leonard Angelo Sanchez, the Statement of Probable
14 Cause for the search warrant contained no facts that showed either that any crime
15 had been committed, especially any felony, or, that the search of the plaintiff's motel
16 room was likely to contain evidence of any crime.
17

18
19 104. No reasonable police officer could have believed that said search
20 warrant application was sufficient to pass muster under Fourth Amendment scrutiny.
21 Nonetheless the judge issued the search warrant, as they routinely do without
22 sufficient legal cause to do so.
23

24
25 105. In any case, said defendants searched the plaintiffs' motel room at the
26 Sands Motel while the plaintiffs were being held against their will in the Barstow
27 Police Department; in violation of the plaintiffs' rights under the Fourth Amendment
28

1 to the United States Constitution.

2 106. As a direct and proximate result of the actions of defendants
3
4 SPILLER, BUESA and/or RAMIREZ and/or ESPINOZA and/or LEWIS and/or
5
6 CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK and/or
7
8 WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or
9
10 KIRBY and/or BENITEZ and DOES 1 through 6, inclusive, unlawfully /
11
12 unreasonably searching of plaintiffs' motel room, plaintiffs were: 1) substantially
13
14 physically injured, mentally and emotionally injured, and suffered great physical,
15
16 mental and emotional injury, distress, pain and suffering; 2) incurred medical and
17
18 psychological costs, bills and expenses, 3) incurred attorney's fees and associated
19
20 litigation and other related costs, and 4) incurred the loss of business wages and
21
22 profits, 5) incurred other special and general damages and expenses, in an amount
23
24 to be proven at trial, in excess of \$3,000,000.00 for each plaintiff.
25

19 107. The actions of said defendants, and each of them, as complained of
20
21 herein, were committed maliciously, oppressively and in reckless disregard of
22
23 plaintiff's constitutional rights, sufficient for an award of punitive / exemplary
24
25 damages against said defendants, in an amount to be proven at trial, in excess of
26
27 \$3,000,000.00 for each plaintiff.
28

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SEVENTH CAUSE OF ACTION

Wrongful Death¹⁸ Under California State Law

[Direct Liability Action]

(By Plaintiffs Margaret Alba, as guardian ad litem for minor children A.S., L.S. and S.S. and Daisy Sanchez, against all defendants SPILLER, BUESA and DOES 1 through 3, inclusive, and CITY)

108. Plaintiffs hereby reallege and incorporate by reference the allegations set forth in paragraphs 1 through 107, inclusive, above, as if set forth in full herein.

109. As alleged above, when defendants SPILLER and BUESA arrived at the Sands Motel in response to ALBA's 911 call, Leonard Angelo Sanchez, minor plaintiff L.S. and Margaret Alba were standing outside of the doorway area of their motel room (Room Number 10), and A.S. and S.S. were inside said motel room.

110. When defendants SPILLER and BUESA approached them minor plaintiff L.S. complained to his father, Leonard Angelo Sanchez, that he ruins everything, and walked into the motel room; behind Leonard Angelo Sanchez and plaintiff Margaret Alba who were standing outside of the hotel room.

111. Plaintiff Margaret Alba told SPILLER and BUESA that they wanted Leonard Angelo Sanchez to leave their motel room and that he was acting crazy,

¹⁸ Based on California state law; Cal. Civ. Proc. Code § 377.60 *et seq.*

1 and Leonard Angelo Sanchez agreed, and then displayed two kitchen knives, and
2 held them in his hand in a nonthreatening manner to others; only to himself.
3

4 112. While holding the knives in his hands, defendant SPILLER pointed
5 his pistol at Leonard Angelo Sanchez, and defendant BUESA pointed his taser at
6 Leonard Angelo Sanchez and both officers were yelling at Leonard Angelo
7 Sanchez; ordering Leonard Angelo Sanchez to drop the knives.
8

9 113. Leonard Angelo Sanchez did not expressly or impliedly threaten
10 anyone other than himself, with said knives, and held them against flush against
11 his front midsection.
12

13 114. Margaret Alba then walked into the motel room.
14

15 115. After defendants SPILLER and BUESA continued to point their
16 weapons at Leonard Angelo Sanchez and demand that he drop the knives, and
17 Leonard Angelo Sanchez began to turn to into the motel room, and stopped at the
18 doorway and looked back at said officers.
19

20 116. Defendant BUESA said to SPILLER *"Do you want me to try to tase*
21 *him? Do you want me to try to tase him? Drop "*, and immediately thereafter
22 fired his taser at Leonard Angelo Sanchez as he stood in the doorway.
23

24 117. Immediately after BUESA shot Leonard Angelo Sanchez with his
25 taser, SPILLER shot Leonard Angelo Sanchez with his pistol as he was still
26 standing on the threshold of the doorway of the motel room.
27
28

1 118. After the defendants SPILLER and BUESA shot Leonard Angelo
2 Sanchez the first time, he fell onto the bed into a helpless position in the motel
3 room, with Margaret Alba and the minor plaintiffs out of the reach of Leonard
4 Angelo Sanchez. Margaret Alba kept yelling at the defendants SPILLER and
5 BUESA: “*Don’t shoot, don’t shoot, he dropped the knife*”¹⁹.
6
7

8 119. At the time of the first shooting, all three minor children plaintiffs
9 were in the room, including A.S., L.S., S.S., and they personally witnessed
10 defendant SPILLER shoot their father, and the plaintiffs were in the line of fire
11 such that SPILLER placed the plaintiffs in greater danger by shooting Leonard
12 Angelo Sanchez, than any danger posed to them by Leonard Angelo Sanchez.
13
14

15 120. Thereafter, notwithstanding Leonard Angelo Sanchez now lying on
16 the bed and disabled by the gunshot wound, and not posing any threat to either the
17 minor plaintiffs or plaintiff Margaret Alba. The plaintiffs begged the officers not
18 to shoot him again, but defendant SPILLER proceeded to shoot Leonard Angelo
19 Sanchez two more times while he was in a supine position on the bed and posed a
20 threat to no one.
21
22

23 121. The additional two shots by defendant SPILLER occurred after
24 Leonard Angelo Sanchez was already shot once, and after he was lying on his
25
26
27
28

¹⁹ Or words to that effect.

1 back and on the bed inside the motel room, and posed no threat to anyone, and
2 Margaret Alba kept yelling at the defendants SPILLER and BUESA: “*Don’t*
3 *shoot, don’t shoot, he dropped the knife*”²⁰. Moreover, at most only the use of
4 non-lethal force could have arguably been justified to use on Leonard Angelo
5 Sanchez, such as the taser that BUESA used upon Leonard Angelo Sanchez.
6
7

8 122. Margaret Alba kept yelling at the defendants SPILLER and BUESA:
9 “*Don’t shoot, don’t shoot, he dropped the knife*”²¹.
10

11 123. As alleged above, at the time of the first shootings by SPILLER and
12 BUESA, all three minor children plaintiffs were in the room, including A.S., L.S.,
13 S.S., and they personally witnessed defendant SPILLER shoot their father.
14

15 124. As alleged above, after the defendant officers shot Leonard Angelo
16 Sanchez they pointed their weapons at the minor plaintiffs and Margaret Alba and
17 ordered them to get out of the motel room.
18

19 125. As alleged above, minor plaintiff A.S. was horrified and ran into the
20 bathroom of the motel room.
21

22 126. As alleged above, plaintiff Margaret Alba then begged the defendant
23 officers not to shoot her children, and said defendant officers then pointed /
24
25

26
27
28 ²⁰ Or words to that effect.

²¹ Or words to that effect.

1 brandished their guns at the plaintiffs, including the minor plaintiffs, and ordered
2 them to exit the motel room.
3

4 127. As alleged above, plaintiffs were terrified by seeing their father
5 wrongfully shot before their eyes, and were terrified by having guns pointed at
6 them while being ordered to leave their motel room, and ran out of the motel room
7 to comply with said defendants' orders.
8

9 128. As alleged above, when defendants SPILLER and BUESA shot
10 plaintiff Leonard Angelo Sanchez, in the same room where plaintiffs Margaret
11 Alba, A.S., L.S. and S.S. were and where they resided, defendants SPILLER and
12 BUESA, and thereafter defendants RAMIREZ and/or ESPINOZA and/or LEWIS
13 and/or CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK and/or
14 WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY
15 and/or BENITEZ and DOES 1 through 6, inclusive, seized plaintiffs Margaret
16 Alba, A.S., L.S. and S.S., and held them confined in other rooms at said motel, and
17 thereafter took them against their wills to the Barstow Police Department's
18 Detective's Offices in Barstow, California and confined them there.
19
20
21
22

23 129. As alleged above, after shooting Leonard Angelo Sanchez,
24 defendants SPILLER and BUESA, pointed their guns at plaintiffs Margaret Alba,
25 A.S., L.S. and S.S. and yelled at them to get out of their motel room.
26
27

28 130. As alleged above, also as set forth above, said plaintiffs exited their

1 motel room pursuant to defendants' demands to do so; above-referenced.

2
3 131. As alleged above, said deadly shooting of Leonard Angelo Sanchez by
4 defendants SPILLER and BUESA also caused Leonard Angelo Sanchez to suffer
5 severe physical injury and ultimately his death, as well as severe mental, emotional
6 and physical pre-death distress, pain and suffering; in an amount to be proven at
7 trial, in excess of \$3,000,000.00 per plaintiff.
8

9 132. As alleged above, said shooting of Leonard Angelo Sanchez by
10 defendants SPILLER and BUESA was done by defendant police officers without
11 reasonable cause to believe that Leonard Angelo Sanchez was such a danger to
12 others that it was reasonably necessary to shoot him at all, and was done without
13 legal or moral justification for doing so.
14
15

16 133. It was more dangerous to plaintiffs for SPILLER to have shot at
17 Leonard Angelo Sanchez as he stood on the threshold of the doorway to said room,
18 than any danger posed by Leonard Angelo Sanchez entering said motel room.
19
20

21 134. Therefore, said defendants are liable to said plaintiffs for the
22 wrongful death of Leonard Angelo Sanchez pursuant to Cal. Civ. Proc. Code §
23 377.60 and otherwise pursuant to Cal. Civ. Proc. Code §§ 815.2, 815.2(a), 815.6,
24 820, 820.4 and 820.8.
25

26 135. As a direct and proximate result of the actions of defendants
27 SPILLER and BUESA plaintiffs suffered the loss of the relationship with their
28

1 father, Leonard Sanchez, including his society, comfort, solace, guidance and
 2 support as well as burial / funeral costs/expenses, medical and psychological
 3 costs/bills and expenses, loss of financial support; all in an amount to be proven at
 4 trial; in excess of \$5,000,000.00 for each plaintiff.
 5

6 136. The actions of said defendants, and each of them, as complained of
 7 herein, were committed maliciously, oppressively and in reckless disregard of
 8 plaintiff's constitutional rights, sufficient for an award of punitive / exemplary
 9 damages against said defendants, in an amount to be proven at trial, in excess of
 10 \$3,000,000.00 for each plaintiff.
 11

12
 13
 14 **EIGHTH CAUSE OF ACTION**
 15 **False Arrest / False Imprisonment**
 16 **Under California State Law**
 17 **[Direct Liability Action]**

18 **(By Plaintiffs Margaret Alba, individually and as guardian ad litem for minor**
 19 **children A.S., L.S., and S.S., against all defendants)**
 20

21 137. Plaintiffs hereby reallege and incorporate by reference the allegations
 22 set forth in paragraphs 1 through 136, inclusive, above, as if set forth in full
 23 herein.
 24

25 138. As complained of above, plaintiff Margaret Alba and minor plaintiffs
 26 A.S., L.S., and S.S. were unlawfully seized and "arrested" by defendants
 27 SPILLER, BUESA, RAMIREZ and/or ESPINOZA and/or LEWIS and/or
 28 CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK and/or
 WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY

1 and/or BENITEZ and DOES 1 through 6, inclusive, on February 25, 2018 by first
2 confining them to another quest room at the Sands Motel, and thereafter taking
3 them to the Barstow Police Department Detective's Building against their will,
4 and imprisoning them there, to be interrogated by the Barstow Police Department
5 and the San Bernardino County to be interrogated to obtain information from
6 them, and to trick / coerce them into making custodial statements that could be
7 used against them in any future civil litigation against the defendants for their
8 unlawful shooting of Leonard Angelo Sanchez.
9
10
11

12 139. This false arrest / false imprisonment of the plaintiffs was done
13 pursuant to the policies and longstanding customs and practices of the Barstow
14 Police Department and the San Bernardino County Sheriff's Department to
15 interrogate witnesses to officer-involved-shootings while they are in police
16 custody, to obtain information from them, and to trick / coerce them into making
17 custodial statements that could be used against them in any future civil litigation
18 against the defendants / shooting officers for their unlawful shooting of Leonard
19 Angelo Sanchez.
20
21
22

23 140. The San Bernardino County Sheriff's Department and the Barstow
24 Police Department has for many years now unlawfully seized witnesses to
25 Officer-Involved-Shootings, and have unlawfully taken them into police custody,
26 and routinely do not tell the witnesses, especially relatives of the persons shot by
27
28

1 the police, that the person who was shot was already dead; full well knowing that
2 if they told the witness who were unlawfully seized and interrogated that the
3 person shot / killed was dead, that the witnesses would not have told the Barstow
4 Police Department and/or the San Bernardino County Sheriff's Department what
5 they saw and know about the shooting, and about the person shot or otherwise
6 unlawfully killed by the police.
7

8
9 141. As complained of above, said defendants SPILLER, BUESA,
10 RAMIREZ and/or ESPINOZA and/or LEWIS and/or CLEARY and/or
11 ALVARADO and/or MOTLEY and/or WARRICK and/or WALKER and/or
12 LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY and/or BENITEZ
13 and DOES 1 through 6, inclusive, had neither reasonable suspicion of criminality
14 afoot about plaintiffs Margaret Alba, A.S., L.S. and S.S., nor probable cause to
15 believe that plaintiffs had committed a crime.
16
17

18
19 142. Defendants SPILLER, BUESA, RAMIREZ and/or ESPINOZA and/or
20 LEWIS and/or CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK
21 and/or WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or
22 KIRBY and/or BENITEZ and DOES 1 through 6, inclusive, and CITY and
23 COUNTY are liable to plaintiffs Margaret Alba, A.S., L.S. and S.S. for their false
24 arrests / false imprisonments pursuant to Cal. Gov't Code §§ 815.2(a), 815.6, 820,
25 820.4 and 820.8.
26
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1 143. In addition, said defendants had no reason to believe that the
2 plaintiffs could not be easily located if the Barstow Police Department and/or the
3 San Bernardino County Sheriff's Department desired to contact them in the future
4 to question.
5

6 144. As a direct and proximate result of the actions of defendants
7 SPILLER, BUESA, RAMIREZ and/or ESPINOZA and/or LEWIS and/or
8 CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK and/or
9 WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY
10 and/or BENITEZ and DOES 1 through 6, inclusive, CITY and COUNTY, plaintiffs
11 Margaret Alba, A.S., L.S. and S.S. were: 1) was substantially physically, mentally
12 and emotionally injured, and suffered great physical, mental and emotional injury,
13 distress, pain and suffering; 2) incurred medical and psychological costs, bills and
14 expenses, 3) incurred attorney's fees and associated litigation and other related
15 costs, and 4) incurred the loss of business wages and profits, 5) incurred other
16 special and general damages and expenses, in an amount to be proven at trial, in
17 excess of \$5,000,000.00 for each plaintiff.
18
19
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22

23 145. The actions by said defendants were committed maliciously and
24 oppressively and constituted despicable conduct; sufficient for an award of
25 punitive / exemplary damages against all defendants and each of them, save
26 defendant CITY and COUNTY, in an amount to be proven at trial in excess of
27
28

1 \$3,000,000.00 for each plaintiff.

2 **NINTH CAUSE OF ACTION**

3 **Negligent Infliction of Emotional Distress²²; *Dillon v. Legg* Claim**

4 **Under California State Law**

5 **[Direct Liability Action]**

6 **(By Plaintiffs Margaret Alba, individually and as guardian ad litem for minor**
 7 **children A.S., L.S., and S.S., against all defendants and DOES 1 through 6,**
 8 **inclusive, and defendant CITY)**

9 146. Plaintiffs hereby reallege and incorporate by reference the allegations
 10 set forth in paragraphs 1 through 145, inclusive, above, as if set forth in full
 11 herein.

12 147. Defendants SPILLER, BUESA, RAMIREZ and/or ESPINOZA and/or
 13 LEWIS and/or CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK
 14 and/or WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or
 15 KIRBY and/or BENITEZ and DOES 1 through 6, inclusive, and each of them,
 16 knew and/or should have known that plaintiffs Margaret Alba, A.S., L.S., and S.S.
 17 were susceptible to suffering severe emotional distress from the actions taken and
 18 committed against Leonard Sanchez and against said plaintiffs as complained of
 19 above and herein, including the wrongful and unlawful shooting of Leonard
 20 Sanchez right in front of them and while causing said , the pointing of guns at the
 21 plaintiffs in / at the motel room, the ordering of the plaintiffs to exit their motel
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 23
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²² *Dillon v. Legg* claim.

1 room, and the “arrests” and interrogations of the plaintiffs; especially doing so
2 while not telling them that Leonard Angelo Sanchez was already dead before they
3 were interrogated.
4

5 148. Each of said plaintiffs were in close physical proximity to and
6 witnesses to the shooting / killing of their father, Leonard Angelo Sanchez, and
7 were in close physical proximity to and were witnesses to said wrongful, tortious
8 and outrageous actions by said defendants being perpetrated against their fellow
9 plaintiffs, above-described.
10
11

12 149. Moreover, the conduct of said defendants, for all of the incidents
13 complained of herein, were outrageous and not the type of conduct condoned in a
14 civilized society.
15

16 150. Therefore, said defendants are liable to said plaintiffs for the severe
17 emotional distress inflicted upon them as well as the wrongful death of Leonard
18 Angelo Sanchez, pursuant to Cal. Civ. Proc. Code § 377.60 and otherwise
19 pursuant to Cal. Civ. Proc. Code §§ 815.2, 815.2(a), 815.6, 820, 820.4 and 820.8.
20
21

22 151. As a direct and proximate result of the actions of defendants
23 SPILLER, BUESA, RAMIREZ and/or ESPINOZA and/or LEWIS and/or
24 CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK and/or
25 WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY
26 and/or BENITEZ and DOES 1 through 6, inclusive, plaintiffs were: 1) substantially
27
28

1 physically, mentally and emotionally injured, and suffered great physical, mental
 2 and emotional injury, distress, pain and suffering; 2) incurred medical and
 3 psychological costs, bills and expenses; 3) incurred attorney's fees and associated
 4 litigation and other related costs; and 4) incurred other special and general
 5 damages and expenses, in an amount to be proven at trial, in excess of
 6 \$5,000,000.00 for each plaintiff.
 7

8
 9 152. The actions by said defendants were committed maliciously and
 10 oppressively and constituted despicable conduct; sufficient for an award of
 11 punitive / exemplary damages against all defendants and each of them, save
 12 defendants CITY, in an amount to be proven at trial in excess of \$10,000,000.00
 13 for each plaintiff.
 14
 15

16
 17 **TENTH CAUSE OF ACTION**
NEGLIGENCE²³

18 **Under California State Law**
 19 **[Direct Liability Action]**

20 **(By Plaintiffs Margaret Alba, individually and as guardian ad litem for minor**
 21 **plaintiffs A.S., L.S. and S.S. and Daisy Sanchez, against all defendants)**

22 153. Plaintiffs hereby reallege and incorporate by reference the allegations
 23 set forth in paragraphs 1 through 152, inclusive, above, as if set forth in full
 24 herein.
 25
 26
 27
 28

²³ Based on California state law.

1 154. Defendants SPILLER, BUESA, RAMIREZ and/or ESPINOZA
2 and/or LEWIS and/or CLEARY and/or ALVARADO and/or MOTLEY and/or
3 WARRICK and/or WALKER and/or LAING and/or BARRIENTOS and/or
4 GILMORE and/or KIRBY and/or BENITEZ and DOES 1 through 6, inclusive,
5 owed plaintiffs Margaret Alba, A.S., L.S., S.S. and Daisy Sanchez, and decedent
6 Leonard Angelo Sanchez, a duty to use due care regarding the safety and well-
7 being of their persons and their rights.
8

9
10
11 155. As set forth above, said defendants breached their duty of using due
12 care toward plaintiffs Margaret Alba, minor plaintiffs A.S., L.S. and S.S., plaintiff
13 Daisy Sanchez and plaintiffs' decedent Leonard Angelo Sanchez by their actions
14 described above and below, to wit; shooting Leonard Angelo Sanchez when a
15 reasonably well trained police officer would have known that sufficient
16 circumstances did not justify the shooting and while placing the plaintiffs in
17 greater danger than if they did not shoot at all, also by failing to just use non-lethal
18 force upon Leonard Angelo Sanchez (i.e. a taser), and by pointing their weapons
19 at the plaintiffs, ordering the plaintiffs out of their motel room, unlawfully seizing
20 and searching the plaintiff motel room, unlawfully seizing and interrogating the
21 plaintiffs; all as described above.
22
23
24
25

26 156. Therefore, said defendants are liable to said plaintiffs for the
27 wrongful death of Leonard Angelo Sanchez pursuant to Cal. Civ. Proc. Code §
28

1 377.60 and otherwise pursuant to Cal. Civ. Proc. Code §§ 815.2, 815.2(a), 815.6,
 2 820, 820.4 and 820.8, and Cal. Civil Code § 1714.

3
 4 157. As shown above, defendants SPILLER, BUESA, RAMIREZ and/or
 5 ESPINOZA and/or LEWIS and/or CLEARY and/or ALVARADO and/or
 6 MOTLEY and/or WARRICK and/or WALKER and/or LAING and/or
 7 BARRIENTOS and/or GILMORE and/or KIRBY and/or BENITEZ and DOES 1
 8 through 6, inclusive, breached their duty of care to plaintiffs Margaret Alba, A.S.,
 9 L.S., S.S., Daisy Sanchez and decedent Leonard Angelo Sanchez when they:
 10
 11 1) wrongfully and unlawfully shot and killed Leonard Sanchez, 2) pointed their
 12 guns at the plaintiffs in / at the motel room, 3) ordered of the plaintiffs to exit their
 13 motel room, 4) closed of the door to and the drapes inside of the plaintiffs' motel
 14 room, 5) "arrested" and "interrogated" the plaintiffs, 6) unlawfully seized the
 15 plaintiffs' motel room, 7) unlawfully searched the plaintiffs' motel room, and
 16 committed the other wrongful actions complained of herein.

17
 18 158. As a direct and proximate result of the actions of said defendants'
 19 negligent actions, plaintiffs: 1) substantially physically, mentally and emotionally
 20 injured, and suffered great physical, mental and emotional injury, distress, pain
 21 and suffering; 2) incurred medical and psychological costs, bills and expenses; 3)
 22 incurred funeral / burial expenses; and 4) incurred other special and general
 23 damages and expenses, in an amount to be proven at trial, in excess of
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1 \$10,000,000.00.

2 **ELEVENTH CAUSE OF ACTION**
 3 **TRESPASS TO RESIDENCE²⁴**

4 **Under California State Law**

5 **[Direct Liability Action]**

6 **(By Plaintiff Margaret Alba, as guardian ad litem for minor children A.S.,**
 7 **L.S. and S.S. against all defendants)**

8 159. Plaintiffs hereby reallege and incorporate by reference the allegations
 9 set forth in paragraphs 1 through 158, inclusive, above, as though set forth in full
 10 herein.

11 160. As alleged above, when defendants SPILLER and BUESA shot
 12 plaintiff Leonard Angelo Sanchez, in the same room where plaintiffs Margaret
 13 Alba, A.S., L.S. and S.S. were and where they resided, defendants SPILLER,
 14 BUESA, RAMIREZ and/or ESPINOZA and/or LEWIS and/or CLEARY and/or
 15 ALVARADO and/or MOTLEY and/or WARRICK and/or WALKER and/or
 16 LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY and/or BENITEZ
 17 and DOES 1 through 6, inclusive, seized plaintiffs Margaret Alba, A.S., L.S. and
 18 S.S., and their older sister Daisy Sanchez, and held them confined in other rooms at
 19 said motel, and thereafter took them against their wills to the Barstow Police
 20 Department's Detective's Offices in Barstow, California.
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²⁴ Based on California state law.

1 161. In addition, as alleged above, after shooting Leonard Angelo
2 Sanchez, defendants SPILLER and BUESA pointed their guns at plaintiffs
3 Margaret Alba, A.S., L.S. and S.S. and yelled at them to get out of their motel room;
4 essentially threatening them with being shot for their refusal / failure to exit their
5 motel room.
6

7
8 162. In addition, as alleged above, said plaintiffs exited their motel room
9 pursuant to defendants' demands to do so; above-referenced.
10

11 163. In addition, as alleged above, thereafter, defendants SPILLER,
12 BUESA, RAMIREZ and/or ESPINOZA and/or LEWIS and/or CLEARY and/or
13 ALVARADO and/or MOTLEY and/or WARRICK and/or WALKER and/or
14 LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY and/or BENITEZ
15 and DOES 1 through 6, inclusive, closed the door of the plaintiffs' motel room;
16 preventing the plaintiffs or anyone else from seeing what was going on inside of the
17 motel room.
18

19
20 164. In addition, as alleged above, defendants SPILLER, BUESA,
21 RAMIREZ and/or ESPINOZA and/or LEWIS and/or CLEARY and/or
22 ALVARADO and/or MOTLEY and/or WARRICK and/or WALKER and/or
23 LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY and/or BENITEZ
24 and DOES 1 through 6, inclusive, used yellow police tape to cordon-off the area
25 around and their motel room at the Sands Motel, to keep them and others away from
26
27
28

1 and out of the plaintiff's motel room.

2 165. Moreover, as alleged above, defendants SPILLER, BUESA,
3
4 RAMIREZ and/or ESPINOZA and/or LEWIS and/or CLEARY and/or
5 ALVARADO and/or MOTLEY and/or WARRICK and/or WALKER and/or
6 LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY and/or BENITEZ
7
8 and DOES 1 through 6, inclusive, ejected the plaintiffs out of their motel room.

9 166. Moreover, as alleged above, defendants SPILLER, BUESA,
10
11 RAMIREZ and/or ESPINOZA and/or LEWIS and/or CLEARY and/or
12 ALVARADO and/or MOTLEY and/or WARRICK and/or WALKER and/or
13 LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY and/or BENITEZ
14
15 and DOES 1 through 6, inclusive, DOES 1 through 6, inclusive, kept the plaintiffs
16 from access to their personal property that was inside of the motel room when the
17 plaintiffs were forced out of the same.

18 167. In addition to the above and foregoing, following defendants
19
20 SPILLER, BUESA, RAMIREZ and/or ESPINOZA and/or LEWIS and/or
21 CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK and/or
22 WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY
23 and/or BENITEZ and DOES 1 through 6, inclusive, forced the plaintiffs out of their
24 motel room.

25 168. In addition to the above and foregoing, following defendants SPILLER
26
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28

1 and BUESA, and thereafter defendants RAMIREZ and/or ESPINOZA and/or
2 LEWIS and/or CLEARY and/or ALVARADO and/or MOTLEY and/or
3 WARRICK and/or WALKER and/or LAING and/or BARRIENTOS and/or
4 GILMORE and/or KIRBY and/or BENITEZ and DOES 1 through 6, inclusive,
5 forcing the plaintiffs out of their motel room, defendants SPILLER, BUESA and/or
6 RAMIREZ and/or ESPINOZA and/or LEWIS and/or CLEARY and/or
7 ALVARADO and/or MOTLEY and/or WARRICK and/or WALKER and/or
8 LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY and/or
9 BENITEZ and DOES 1 through 6, inclusive, unlawfully obtained a search warrant
10 for the search of said motel room; not to investigate criminal behavior, but to
11 perform a civil liability investigation for the City of Barstow by the County of San
12 Bernardino; an abuse of the search warrant provisions of California and federal
13 statutory and constitutional law.

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19 169. The affidavit for the search warrant (i.e. Statement of Probable Cause)
20 was devoid of any facts that indicated that the defendants were even doing any sort
21 of criminal investigation, and only showed that pursuant to the policies, customs and
22 practices of the Barstow Police Department and the San Bernardino County
23 Sheriff's Department, the defendants were abusing the search warrant process to
24 unlawfully conduct a Civil Liability Investigation for the Barstow Police
25 Department and for SPILLER and BUESA; to protect them from civil liability for
26
27
28

1 the shooting of Leonard Angelo Sanchez described above.

2
3 170. Moreover, even if said defendants were doing a criminal investigation
4 regarding the shooting of Leonard Angelo Sanchez, the Statement of Probable
5 Cause for the search warrant contained no facts that showed either that any crime
6 had been committed, especially any felony, or, that the search of the plaintiff's motel
7 room was likely to contain evidence of any crime.
8

9 171. No reasonable police officer could have believed that said search
10 warrant application was sufficient to pass muster under Fourth Amendment scrutiny.
11 Nonetheless the judge issued the search warrant.
12

13 172. In any case, said defendants search of the plaintiffs' motel room at the
14 Sands Motel, constituted a trespass to plaintiffs' residence under California state
15 law. Therefore, said defendants are liable to said plaintiffs for said a trespass to
16 plaintiffs' residence pursuant to Cal. Civ. Proc. Code §§ 815.2, 815.2(a), 815.6,
17 820, 820.4 and 820.8.
18

19 173. As a direct and proximate result of the actions of defendants
20 SPILLER, BUESA, RAMIREZ and/or ESPINOZA and/or LEWIS and/or
21 CLEARY and/or ALVARADO and/or MOTLEY and/or WARRICK and/or
22 WALKER and/or LAING and/or BARRIENTOS and/or GILMORE and/or KIRBY
23 and/or BENITEZ and DOES 1 through 6, inclusive, unlawfully / unreasonably
24 entering and searching plaintiffs' motel room, plaintiffs were: 1) were
25
26
27
28

1 substantially physically injured, mentally and emotionally injured, and suffered
 2 great physical, mental and emotional injury, distress, pain and suffering; 2)
 3 incurred medical and psychological costs, bills and expenses, 3) incurred
 4 attorney's fees and associated litigation and other related costs, and 4) incurred the
 5 loss of business wages and profits, 5) incurred other special and general damages
 6 and expenses, in an amount to be proven at trial, in excess of \$3,000,000.00 each.
 7
 8

9 174. The actions of said defendants, and each of them, as complained of
 10 herein, were committed maliciously, oppressively and in reckless disregard of
 11 plaintiff's constitutional rights, sufficient for an award of punitive / exemplary
 12 damages against said defendants, in an amount to be proven at trial, in excess of
 13 \$3,000,000.00 for each plaintiff.
 14
 15

16
 17 **TWELTH CAUSE OF ACTION**
 18 ***MONELL*²⁵ AND SUPERVISORY LIABILITY**
 19 **[42 U.S.C. § 1983]**

20 **(By Plaintiff Margaret Alba, as guardian ad litem for minor children A.S., L.S.**
 21 **S.S. and Daisy Sanchez, individually as successors in interest to Leonard**
 22 **Sanchez, against defendants RAMIREZ, McMAHON, CITY and COUNTY**
 23 **and DOES 7 through 10, inclusive)**

24 175. Plaintiffs hereby reallege and incorporate by reference the allegations
 25 set forth in paragraphs 1 through 174, inclusive, above, as though set forth in full
 26 herein.
 27
 28

²⁵ *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978).

1 176. Defendants RAMIREZ and DOES 7 and 8, inclusive were final
2 policy making officials with defendant City of Barstow.
3

4 177. Defendants McMAHON and DOES 9 and 10, inclusive were final
5 policy making officials with defendant County of San Bernardino.
6

7 178. Defendants RAMIREZ, McMAHON and DOES 7 through 10,
8 inclusive, and were in some substantial way liable and responsible for, or
9 otherwise proximately caused and/or contributed to the events complained of by
10 plaintiffs in this case, such as via the creation and maintenance of the
11 unconstitutional policies, customs and practices complained of above regarding
12 the handling of Officer-Involved-Shootings and the Investigations of the same²⁶,
13 and via supervisory liability (i.e. failure to properly supervise, improperly
14 directing subordinate officers and/or approving unconstitutional actions of
15 subordinate officers), via bystander liability (failing to intervene in and stop
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21 ²⁶ The San Bernardino County Sheriff's Department and the Barstow Police Department has for
22 many years now unlawfully seized witnesses to Officer-Involved-Shootings, and have
23 unlawfully taken them into police custody to interrogate them for Civil Liability purposes and
24 not to investigate criminal conduct, and has routinely not told the seized witnesses, especially
25 relatives of the persons shot / killed by the police that the person shot / killed was already dead;
26 full well knowing that if they told the witness who were unlawfully seized and interrogated that
27 the person shot / killed by the police was dead, that the witnesses would not have told the
28 Barstow Police Department and the San Bernardino County Sheriff's Department what they saw
and know about the shooting and the person shot or otherwise unlawfully killed by the police.
Those policies, customs and practices of the Barstow Police Department and the San Bernardino
County Sheriff's Department also involve unlawfully seizing the place where the police killed
another, and unlawfully obtaining search warrants to do Civil Liability Investigations to protect
the police / deputies and their employing entities from civil liability.

1 unlawful actions of their subordinates and/or other officers), and such as by
2 creating and/or causing the creation of and/or contributing to the creation of the
3 policies and/or longstanding practices and/or longstanding customs and/or
4 longstanding usages of defendant City of Barstow for: 1) wrongfully and
5 unconstitutionally killing persons; 2) using excessive / unreasonable force on
6 persons; 3) unlawfully searching and seizing persons; 4) unlawful searching and
7 seizing persons' homes and effects / personal property; 5) falsely arresting and
8 falsely imprisoning persons; 6) fabricating / destroying / concealing / altering /
9 withholding evidence in criminal and civil actions; 7) "framing" / attempting to
10 "frame" innocent persons in criminal actions²⁷, 8) violating and interfering with
11 persons' constitutionally protected right to free speech and right to petition the
12 government for redress of grievances; 9) violating, interfering and depriving
13 persons of their of constitutionally protected parent-child relationships; 10)
14 covering-up unlawful and tortious conduct by the City of Barstow police officers
15 and other City personnel and 11) falsely, corruptly, wrongfully and
16 unconstitutionally obtaining search warrants for private residences to perform
17 civil liability investigations to protect themselves, the City of Barstow and City of
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28 ²⁷ To protect themselves and other police officers and deputy sheriffs and supervisory personnel from civil, administrative and criminal liability.

1 Barstow police officers from civil, criminal and administrative liability, and were
2 a proximate cause of the very same California state law, and federal and state
3 constitutional violations complained of by the plaintiffs in this action.
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5 179. Defendants RAMIREZ, McMAHON, CITY and COUNTY and
6 DOES 7 through 10, inclusive, were in some substantial way liable and
7 responsible for, or otherwise proximately caused and/or contributed to the events
8 complained of by plaintiffs in this case, such as via supervisory liability (i.e.
9 failure to properly supervise, improperly directing subordinate officers and/or
10 approving unconstitutional actions of subordinate officers), via bystander liability
11 (failing to intervene in and stop unlawful actions of their subordinates and/or other
12 officers), and such as by creating and/or causing the creation of and/or
13 contributing to the creation of the policies and/or practices and/or customs and/or
14 usages of the County of San Bernardino for: 1) wrongfully and unconstitutionally
15 killing persons; 2) using excessive / unreasonable force on persons; 3) unlawfully
16 searching and seizing persons; 4) unlawful searching and seizing persons' homes
17 and effects / personal property; 5) falsely arresting and falsely imprisoning
18 persons; 6) fabricating / destroying / concealing / altering / withholding evidence
19 in criminal and civil actions; 7) "framing" / attempting to "frame" innocent
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1 persons in criminal actions²⁸, 8) violating and interfering with persons'
2 constitutionally protected right to free speech and right to petition the government
3 for redress of grievances; 9) violating, interfering and depriving persons of their of
4 constitutionally protected parent child relationships; 10) covering-up unlawful and
5 tortious conduct by the County of San Bernardino deputy sheriffs and supervisors
6 and other County of San Bernardino personnel and 11) falsely, corruptly,
7 wrongfully and unconstitutionally obtaining search warrants for private residences
8 to perform civil liability investigations to protect themselves, the City of Barstow
9 and City of Barstow police officers from civil, criminal and administrative
10 liability, and were a proximate cause of the very same California state law, and
11 federal and state constitutional violations complained of by the plaintiffs in this
12 action.
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18 180. Also, over at least the past three decades the Barstow Police
19 Department and the San Bernardino County Sheriff's Department have failed to
20 discipline its deputy sheriffs and police officers for the use of unreasonable force
21 upon innocents and other civilians, and both entities have an unwritten policy to
22 use unreasonable force upon persons who pose no threat to its deputies and
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28 ²⁸ To protect themselves and other police officers and deputy sheriffs and supervisory personnel from civil, administrative and criminal liability.

1 officers.

2 181. Over the past ten years the San Bernardino County Sheriff's
3 Department has used unreasonable force on an average of two thousand persons
4 per year and the Barstow Police Department has used excessive force on hundreds
5 of persons.
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8 182. Over than same period of time, within the past six years, the use of
9 unreasonable force by San Bernardino County Sheriff's Department and the
10 Barstow Police Department has increased and the severity and level of the use of
11 force has been promoted by the San Bernardino County District Attorney's Office
12 Crimes Against Peace Officers ("CAPO") Prosecution Unit by said unit
13 deliberately persecuting and prosecuting the innocent victims of the use of
14 unreasonable force by San Bernardino County Sheriff's Department deputy
15 sheriffs and Barstow Police Department police officers, and by the San
16 Bernardino County Sheriff's Department and the Barstow Police Department
17 justifying the use of unreasonable force, including the use of unreasonable deadly
18 force upon civilians.
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23 183. Said policies and practices of the San Bernardino County District
24 Attorney's Office CAPO Prosecution Unit and the San Bernardino County
25 Sheriff's Department's failure to discipline literally thousands of deputy sheriffs
26 and police officers for the obvious use of unreasonable force for "contempt of
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1 cop” cases and otherwise. Said policies also resulted in the unlawful use of force
 2 upon Leonard Angelo Sanchez during the incident complained of in this action.
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4 184. As a direct and proximate result of the actions of defendants
 5 RAMIREZ, McMAHON, CITY and COUNTY and DOES 7 through 10,
 6 inclusive, plaintiffs were: 1) were substantially physically injured, mentally and
 7 emotionally injured, and suffered great physical, mental and emotional injury,
 8 distress, pain and suffering; 2) incurred medical and psychological costs, bills and
 9 expenses, 3) incurred funeral and burial costs and expenses, and 4) incurred the
 10 loss of business wages and profits, 5) incurred other special and general damages
 11 and expenses, in an amount to be proven at trial, in excess of \$10,000,000.00.
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15 185. The actions of said defendants, and each of them, as complained of
 16 herein, were committed maliciously, oppressively and in reckless disregard of
 17 plaintiff’s constitutional rights, sufficient for an award of punitive / exemplary
 18 damages against said defendants, save CITY and COUNTY, in an amount to be
 19 proven at trial, in excess of \$3,000,000.00 for each plaintiff.
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22 **THIRTEENTH CAUSE OF ACTION**
 23 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
 24 **Under California State Law**
 25 **[Direct Liability Action]**

26 **(By Plaintiffs Margaret Alba, individually and as guardian ad litem for**
 27 **plaintiffs A.S., L.S., S.S., individually and as successors in interest to Decedent**
 28 **Leonard Angelo Sanchez, against all Defendants)**

186. Plaintiffs hereby reallege and incorporate by reference the allegations

1 set forth in paragraphs 1 through 203, inclusive, above, as if set forth in full
2 herein.
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4 187. As set forth above, defendants SPILLER, BUESA, RAMIREZ and/or
5 ESPINOZA and/or LEWIS and/or CLEARY and/or ALVARADO and/or
6 MOTLEY and/or WARRICK and/or WALKER and/or LAING and/or
7 BARRIENTOS and/or GILMORE and/or KIRBY and/or BENITEZ and DOES 1
8 through 6, inclusive: 1) wrongfully and unlawfully shot and killed Leonard
9 Sanchez, 2) pointed their guns at the plaintiffs in / at the motel room, 3) ordered
10 the plaintiffs to exit their motel room, 4) “arrested” and “interrogated” the
11 plaintiffs, 5) unlawfully seized the plaintiffs’ motel room, 6) unlawfully searched
12 the plaintiffs’ motel room, 7) falsely arrested / falsely imprisoned the plaintiffs
13 and took them, against their wills, to the Barstow Police Department to be
14 interrogated by the San Bernardino County Sheriff’s Department and the Barstow
15 Police Department when their relatives were already dead, without telling them
16 that they were dead, to protect their officers and deputies from civil and criminal
17 liability, and committed the other wrongful actions complained of herein.
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20 188. When said defendants committed these actions they knew or
21 reasonably should have known that said actions would cause the plaintiffs to
22 suffer extreme emotional distress, and, in fact, plaintiffs did suffer severe
23 emotional distress.
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1 189. The actions complained of herein by plaintiffs were outrageous and
2 were not the type of actions tolerated in a civilized society.
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4 190. As a direct and proximate result of the actions of said defendants'
5 negligent actions, plaintiffs: 1) substantially physically, mentally and emotionally
6 injured, and suffered great physical, mental and emotional injury, distress, pain
7 and suffering; 2) incurred medical and psychological costs, bills and expenses; 3)
8 incurred funeral / burial expenses; and 4) incurred other special and general
9 damages and expenses, in an amount to be proven at trial, in excess of
10 \$10,000,000.00.
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13 191. The actions of said defendants, and each of them, as complained of
14 herein, were committed maliciously, oppressively and in reckless disregard of
15 plaintiff's constitutional rights, sufficient for an award of punitive / exemplary
16 damages against said defendants, save CITY and COUNTY, in an amount to be
17 proven at trial, in excess of \$3,000,000.00 for each plaintiff.
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20 **WHEREFORE**, plaintiffs pray for judgment as follows:
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22 a) For a judgment against all defendants for compensatory damages in
23 an amount in excess of \$10,000,000.00 for each plaintiff;
24

25 b) For a judgment against all defendants, save CITY and COUNTY, for
26 punitive damages in an amount in excess of \$10,000,000.00 for each plaintiff;
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28 c) For an award of reasonable attorney's fees and costs;

1 d) For a trial by jury; and

2 e) For such other and further relief as this honorable court deems just
3
4 and equitable.

5 Dated July 24, 2019

/s/ Jerry L. Steering

6 JERRY L. STEERING, Attorney for
7 Plaintiffs Margaret Alba, individually and
8 as guardian ad litem for minor children A.S.,
9 L.S., and S.S., successors in interest to
10 decedent Leonard Angelo Sanchez
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